



KAPLAN KIRSCH ROCKWELL

FILING FEE WAIVED

October 20, 2009

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001



Re: *BNSF Railway Company - Abandonment Exemption - In King County, Washington, Finance Docket No. AB-6 (Sub-No. 463X)*
BNSF Railway Company - Abandonment Exemption - In King County, Washington, Finance Docket No. AB-6 (Sub-No. 464X)
BNSF Railway Company - Abandonment Exemption - In King County, Washington, Finance Docket No. AB-6 (Sub-No. 465X)

225890

225891

225892

Dear Ms. Quinlan:

I am enclosing an original and ten (10) copies of the Motion of King County, Washington, for an Extension of Period for Negotiation of Trail Use Agreement in the above referenced proceedings. An additional copy is enclosed for date stamp and return to our messenger. Please note that a 3.5 inch diskette is enclosed with this document.

For each of the above-listed proceedings, I am enclosing the \$450.00 filing fee required for a request to extend time to negotiate a trail use agreement pursuant to 49 CFR § 1002.2(f)(27)(ii) (i.e., a total fee of \$1,350.00). However, King County is seeking a waiver of the filing fee based on the fact that it is a local government entity filing the request on behalf of the general public. See 49 CFR § 1002.2(e); STB Ex Parte No. 542 (Sub-No. 6) – *Regulations Governing Fees For Services Performed In Connection With Licensing and Related Services – Policy Statement* (Served December 6, 2000). King County is a “state or local government entity” and is a non-carrier. A separate memorandum requesting a waiver and refund of the filing fee is attached.

FILED

OCT 20 2009

**SURFACE
TRANSPORTATION BOARD**

Enclosures

Sincerely,

Charles A. Spaulnik

ENTERED
Office of Proceedings

OCT 20 2009

Part of
Public Record

cc: All Parties of Record

Attorneys at Law
Denver • New York • Washington, DC

Kaplan Kirsch & Rockwell LLP
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Washington, DC 20036

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October 20, 2009

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-6 (Sub-No. 463X)

225890

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)**

STB Docket No. AB-6 (Sub-No. 464X)

225891

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Woodinville Subdivision, MP 5.00 to MP 10.60)**

STB Docket No. AB-6 (Sub-No. 465X)

225892

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)**

**MOTION OF
KING COUNTY, WASHINGTON
FOR EXTENSION OF PERIOD FOR NEGOTIATION OF
TRAIL USE AGREEMENT**

Communications with respect to this pleading
should be addressed to:

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Allison I. Fultz
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Washington, DC 20036
(202) 955-5600
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E-mail: afultz@kaplankirsch.com
Counsel for King County, Washington

Dated: October 20, 2009

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-6 (Sub-No. 463X)

225890

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)**

STB Docket No. AB-6 (Sub-No. 464X)

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**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Woodinville Subdivision, MP 5.00 to MP 10.60)**

STB Docket No. AB-6 (Sub-No. 465X)

225892

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)**

**MOTION OF
KING COUNTY, WASHINGTON
FOR EXTENSION OF PERIOD FOR NEGOTIATION OF
TRAIL USE AGREEMENT**

King County, Washington (“King County”), pursuant to 49 C.F.R. § 1104.7(b), hereby submits this Motion for an extension of the 180-day time period for completion of a Trail Use Agreement in the above-listed proceedings. According to the Decisions issued (a) in AB-6 (Sub-No. 463X) (“Redmond Spur”) and AB-6 (Sub-No. 464X) (“Woodinville South”) initially authorizing trail use on October 27, 2008, (b) in AB-6 (Sub-No. 465X) (“Woodinville North”) initially authorizing trail use on November 28, 2008, and (c) granting an extension of time on May 12, 2009, in all three proceedings, the period for negotiating an agreement in those

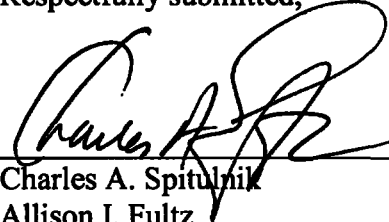
proceedings will expire on October 22, 2009. King County is requesting an additional one hundred eighty (180) days to complete negotiation of the required trail use agreements.

No offers of financial assistance or requests for public use conditions were filed in any of these three proceedings. Accordingly, subject to the anticipated implementation of trail use, the authority to abandon these three segments has become effective.

King County has continued its negotiation of an agreement with BNSF Railway Company ("BNSF") for King County to assume the responsibility of trail user with respect to all three segments. King County has executed the Statement of Willingness to Assume Financial Responsibility that is required by 49 C.F.R. § 1152.29. That statement was previously submitted to this Board on September 18, 2008. King County and BNSF are continuing their negotiations toward finalizing a trail use agreement, and BNSF has authorized King County to state that it concurs with this request for an extension.

WHEREFORE, and in view of the foregoing, King County respectfully requests the Board to extend the time for completion of negotiation of a Trail Use Agreement in these proceedings to April 20, 2010.

Respectfully submitted,



Charles A. Spitulnik

Allison I. Fultz

KAPLAN KIRSCH & ROCKWELL LLP

1001 Connecticut Avenue, N.W.

Suite 800

Washington, DC 20036

(202) 955-5600

E-mail: cspitulnik@kaplankirsch.com

E-mail: afultz@kaplankirsch.com

Counsel for King County, Washington

Dated: October 20, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing MOTION OF KING COUNTY, WASHINGTON, FOR EXTENSION OF PERIOD FOR NEGOTIATION OF TRAIL USE AGREEMENT, upon the following parties of record in this proceeding by first class mail with postage prepaid and properly addressed:

Kristy D. Clark
General Attorney
BNSF Railway Company
2500 Lou Monk Drive
AOB-3
Fort Worth, TX 76131

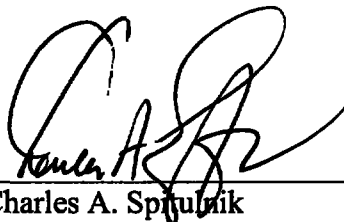
Karl Morell
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Suite 225
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Attorneys for BNSF Railway Company

Tom Carpenter
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Janie Sheng
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006

Attorneys for the Port of Seattle



Charles A. Spitulnik

Dated: October 20, 2009



KAPLAN KIRSCH ROCKWELL

REQUEST FOR REFUND OF FILING FEES

October 20, 2009

VIA HAND DELIVERY

Honorable Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Refund of filing fees for which a waiver has been requested – Request to extend time to negotiate trail use of King County, Washington:
BNSF Railway Company - Abandonment Exemption – In King County, Washington, Docket No. AB-6 (Sub-No. 463X)
BNSF Railway Company - Abandonment Exemption – In King County, Washington, Docket No. AB-6 (Sub-No. 464X)
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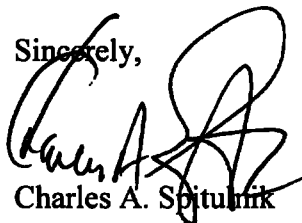
Dear Ms. Quinlan:

This request accompanies the submission, of even date herewith, of the Motion of King County, Washington, for an Extension of Period for Negotiation of Trail Use Agreement, and filing fee in the total amount of \$1,350 (3 each at \$450) in the above referenced proceedings.

King County seeks a waiver of the filing fees based on the fact that it is a local government entity filing its Notice on behalf of the general public. *See 49 CFR § 1002.2(e); STB Ex Parte No. 542 (Sub-No. 6) – Regulations Governing Fees For Services Performed In Connection With Licensing and Related Services – Policy Statement (Served December 6, 2000).* King County is a political subdivision of the State of Washington, a “state or local government entity”, and is a non-carrier.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,



Charles A. Spitulnik

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